

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

UNITED STATES OF AMERICA,

Plaintiff,

v.

Civil No. 12-2039 (FAB)

COMMONWEALTH OF PUERTO RICO, *et*
al.,

Defendants.

ORDER

Throughout this case, the Court has attempted to obtain clear and accurate reporting of all appropriated funding for Police Reform, the expenditures of the funds, and the resolution of unused funds. The reporting continues to be incomplete and inefficient, one which continuously burdens the Court.¹

For example, on February 28, 2022, the Court ordered the defendants to provide certain information related to the use of reform budget funds of the Puerto Rico Police Bureau ("PRPB") for fiscal years (FYs) 2018 through 2022. Defendants' Motion in Compliance, filed on March 15, 2022, primarily relied on a one-page memorandum and attachments which were "vague and perfunctory at best, and far from being compliant with the

¹ As mentioned in Docket No. 2008 at 3-4, A party "cannot expect a trial court to do his homework for him." *Torres Santiago v. Alcaraz Emmanuelli*, 553 F. Supp. 2d 75, 80 (D.P.R. 2008) (Besosa, J.) citing *McCoy v. Mass. Inst. of Tech.*, 950 F.2d 13, 22 (1st Cir. 1991).

Court's order to show cause"² with regard to unused funds. See Docket Nos. 1955 at 4-6 and 1972. Nevertheless, the defendant certified available reform funds for fiscal year (FY) 2022:

PRPB	\$20,431,902.00
Capital Expenditures (Capex)	\$ 6,600,000.00
Unused funds rolled over from FY 2021	
(to be used by June 30, 2022)	\$ 3,396,751.71
Unused Capex rolled over from FY 2021	
(to be used by June 30, 2022)	\$ 66,808.50

On April 27, 2022, in Docket No. 2008 at 6, the Court again ordered the defendants to "report the correct and undisputed amount of funds that will periodically revert to PRPB's budget."

Defendants' Motion in Compliance, filed on June 24, 2022, substantially revised the amount(s) of unused funds available from prior year(s), extended carry-over deadlines, but did not address Unused Capex rolled over from FY 2021. See Docket No. 2076. Specifically:

- Docket No. 1972, Exhibit 2 initially reported unused reform funds from FY 2018 as \$1,928,252.15; no carryover was available, however, because it had "not been requested."

² Docket No. 2008 at 3.

- Docket No. 2076, Exhibit 1 reported unused reform funds from FY 2018 as \$2,591,671.15 "with an account validity until June 2023."
- Docket No. 1972, Exhibit 2 initially reported unused reform funds from FY 2020 as \$5,160,468.61, but the request for carryover was "denied by JCF."
- Docket No. 2076, Exhibit 2 reported unused reform funds from FY 2020 as \$5,184,221.43 "with an account validity until June 2023."
- Docket No. 1972, Exhibit 2 initially reported unused reform funds from FY 2021 as \$3,396,751.20 and was valid until June 30, 2022.
- Docket No. 2076, Exhibit 4 appears to report unused reform funds from FY 2021 as 3,396,751.20 but extended the validity until June 30, 2023.

In addition, Joint Resolution 8-2021, certified June 30, 2021, allocated an additional \$2,800,000 in FY 2022 to the Department of Public Safety (DPS) for reform-related payroll and related costs, but this allocation was not mentioned in either of the above-mentioned Motions in Compliance.

Certain information reported in the Motions in Compliance was compiled prior to the end of FY 2022, and the final certified amounts for FY 2022 may vary. It is imperative, however, that

reliable, clear, complete, and accurate reporting of these FY 2022 funds and subsequent disbursements be available to the Court and the Parties.

On April 26, 2023, the Court-appointed auditor, Christopher Graham, submitted the results of an audit of 109 selected expenses incurred during Fiscal Years 2019, 2020, and 2021.³ That report identified a number of record-keeping and reporting deficiencies. On May 4, 2023, the Court appointed Mr. Graham as Financial Oversight Officer to "assist, monitor, and report on the implementation and progress of the findings in the audit report, conduct *as-needed audits and reviews* (emphasis added), make recommendations to the Court regarding ways to improve the practices of PRPB and their review, and [perform] other duties as assigned by the Court." See Docket No. 2405 at 2. Considering the issues identified in Mr. Graham's audit, as well as ongoing ambiguity surrounding additional reform-related appropriations and prior-year unused funds, the Court orders Mr. Graham to immediately commence planning and preparation for an audit of expenditures associated with all FY 2022 appropriated reform funds.

³ Mr. Graham's audit was limited to the annual \$20 million PRPB reform appropriation and did not include additional appropriated reform funding such as Capital Expenditures (\$6,580,000 in FY 2021), Payroll and Related costs (\$4,460,000 in FY 2021) on any available unused funds from prior years.

In order for Mr. Graham to proceed with the audit, **on or before September 15, 2023**, the defendants shall file a motion, certified pursuant to 28 U.S.C. §1746, containing reports of the following:

1. Finalized report of all available FY 2022 reform-related appropriations, the type, and funding source.
2. Reconciliation of prior-year unused funds showing the total amount available for carry-over by year, the amounts expended in FY 2022, and any remaining balance available for FY 2023 and later.
3. Detailed report/ledger of 2022 reform expenditures.
4. Monthly expenditure reports for FY 2022.
5. A list of employees for which the FY 2022 \$2,800,000 reform-related payroll and related costs were allocated or applied.

IT IS SO ORDERED.

San Juan, Puerto Rico, August 22, 2023.

s/ Francisco A. Besosa
FRANCISCO A. BESOSA
SENIOR UNITED STATES DISTRICT JUDGE